

## **REMARKS/ARGUMENTS**

### **Amendments**

The claims are modified in the amendment. More specifically, claims 1, 9, 30 and 31 have been amended, and no claims have been canceled. Some of these amendments were previously contained in the Amendment dated April 27, 2010, but were not entered (see Advisory Action dated June 1, 2010). The current Office Action appears to have considered these amendments even though they were not entered so for clarity, we are specifically adding them. Claims 5, 14-20, 23, 24 and 26 were previously canceled. Therefore, claims 1-4, 6-13, 21, 22, 25 and 27-34 are present for examination and claims 1, 9, 30 and 31 are the independent claims. Applicants reserve the right to pursue any un-amended, canceled or withdrawn claims in a continuing application without any prejudicial effects. No new matter is added by these amendments. Applicants respectfully request reconsideration of this application as amended.

### **Interview**

On October 7, 2010, the Examiner granted an in-person interview to discuss the outstanding Office Action and suggested amendments. This case has been interviewed several times before. We discussed the below argument and some suggested amendments. Granting of interviews is always appreciated.

### **35 U.S.C. §103 Rejections: Proehl, Inoue and Lawrence**

The Office Action has rejected claims 1-4, 6-13, 21-22, 25 and 27-34 under 35 U.S.C. §103(a) as being unpatentable over the cited portions of U.S. Patent No. 6,990,676 to Proehl et al. (hereinafter "Proehl") in view of the cited portions of U.S. Patent No. 5,884,141 to Inoue (hereinafter "Inoue"), further in view of U.S. Patent No. 6,993,788 to Lawrence (hereinafter "Lawrence"). Applicant, however, believes that Proehl, Inoue and Lawrence, alone or in combination, fail to teach or suggest all the limitations arranged or combined in the same way as recited in the independent claims. Specifically, Proehl, Inoue and Lawrence cannot be relied upon to teach or suggest, alone or in combination: first and second portions are received

with different media types chosen from a group of types consisting of a multicast media or a singlecast media, further wherein the singlecast media is a digital channel transmitted exclusively to the user location, as generally recited in independent claims 1, 9, 30 and 31.

***Missing Limitation: First and second portions received with multicast and singlecast media types.***

Lawrence describes various embodiments for manipulating a broadcast signal that makes multiple streams available to the end customer by broadcasting a sliding-window time range of the signal. *See Lawrence*, at Col. 2, lines 29-33. Lawrence discusses that “embodiments of the present invention provide the economy of scale by eliminating the need to place a device at every customer residence. That is, integrating functionality into the headend may eliminate the requirement of a custom set top box. Further, the economy of scale achieved varies depending on where the unicasting takes place (straight from the headend, or from intermediate devices).” *Id.*, at Col. 4, lines 12-19. Thus, Lawrence locates the unicast point at different points to improve the economy of scale and negate the need for set top boxes.

Lawrence describes three embodiments for using multicasting and unicasting. The methods of these three embodiments are shown in FIGS. 2, 3 and 4. Lawrence discusses that the “embodiments of FIGS. 2, 3, and 4 can be thought of as a continuum where the unicasting point moves from non-existent or at the residence (FIG. 2), to the hub (FIG. 3), or all the way back to the headend (FIG. 4).” *Id.*, at Col. 8, lines 5-8. Lawrence never teaches or suggests how to combine the embodiments of FIGS. 2, 3 and 4 such that the same stream is multicasted and unicast to the user. It is submitted that the system of Lawrence would not need to multicast and unicast signals simultaneously to one destination when multiple streams can be unicast from the headend or an intermediate device to the one destination.

The Office Action alleges, at the paragraph starting on page 5 and ending on page 6, that Proehl and Inoue meet the claimed multicast media, but neither discuss transmitting singlecast media. The Office Action then asserts that it would be obvious to combine Lawrence with Proehl and Inoue to transmit both multicast and singlecast media to each user. Applicant submits that one would not need and one would not be motivated to make this modification because multicasting and unicasting to the destinations of Lawrence would adversely affect the

economy of scale and would also unnecessarily require a custom set top box at each location, both of which go against the teachings of Lawrence.

The only way one would arrive at the claimed methods of claims 1, 9, 30 and 31 based on the cited references would be by the use of impermissible hindsight reconstruction based on the claim language. None of Proehl, Inoue and Lawrence, alone or in combination, teach or suggest first and second portions are received with different media types chosen from a group of types consisting of a multicast media or a singlecast media, further wherein the singlecast media is a digital channel transmitted exclusively to the user location, as generally recited in independent claims 1, 9, 30 and 31. For at least these reasons, the pending claims are allowable over Proehl, Inoue and Lawrence.

#### **Interview Request – Compact Prosecution**

Compact prosecution is of great importance to the Applicants. Should further action be required before allowance of this application, Applicants hereby requests an interview prior to any further office action that would reject the claims. The undersigned can be reached by telephone at 303-571-4000 to schedule that interview.

#### **CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

Appl. No. 09/687,151

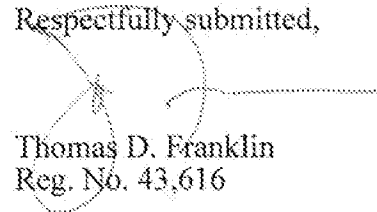
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Amdt. dated February 28, 2011

Reply to Office Action of October 28, 2010

Further, the Commissioner is hereby authorized to charge any additional fees or credit any overpayment in connection with this paper to Deposit Account No. 20-1430.

Respectfully submitted,



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